

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

**MOTION OF U.S. BANK NATIONAL ASSOCIATION FOR RELIEF FROM THE
AUTOMATIC STAY AND CODEBTOR STAY AS TO JOSEPH MCCORMACK ON
FIRST MORTGAGE FOR REAL PROPERTY LOCATED AT 204 MCKEAN STREET,
PHILADELPHIA, PA 19148**

U.S. Bank National Association ("Creditor"), by and through the undersigned counsel, moves the Court pursuant to 11 U.S.C. § 362(d) for an Order granting relief from the automatic stay and pursuant to 11 U.S.C. § 1301 granting relief from the codebtor stay as to Joseph McCormack on the real property located at 204 McKean Street, Philadelphia, PA 19148 ("Property"). In support of its motion, Creditor states the following:

1. Patricia K. McCormack ("Debtor") filed a petition for relief under Chapter 13 of the Bankruptcy Code on November 2, 2022 (the "Petition Date").
 2. On October 25, 2006, Debtor and Codebtor Joseph McCormack executed a Note in the original amount of \$203,000.00 (the "Note"), a copy of which is attached hereto as Exhibit A.
 3. To secure the Note, a Mortgage was given October 25, 2006 and recorded October 31, 2006. A copy of the Mortgage and subsequent Assignments of Mortgage are attached as

Exhibit B, evidencing perfection of Creditor's security interest in the Property which is more particularly described in the Mortgage.

4. The terms of the Note were subsequently modified as set forth in the Loan Modification Agreement (Mortgage), attached as Exhibit C.
5. Debtor(s) executed a promissory note secured by a mortgage or deed of trust. The promissory note is either made payable to Creditor or has been duly indorsed. Creditor, directly or through an agent, has possession of the promissory note. Creditor is the original mortgagee or beneficiary or the assignee of the mortgage or deed of trust.
6. There are no other liens against the property as listed in Debtor's Schedule D.
7. As of August 1, 2023 the total outstanding amount due on the Note is \$241,035.18 which consists of:

Principal	\$211,891.40
Interest	\$14,081.98
Escrow advance	\$14,791.06
Late charges	\$0.00
Other Fees	\$2,042.99
Suspense funds	\$(1,772.25)

8. Creditor seeks relief from the automatic stay pursuant to 11 USC § 362(d) and the codebtor stay pursuant to 11 USC § 1301 to proceed under applicable non-bankruptcy law to enforce its remedies and to take any and all actions necessary to accelerate the balance due on the Note, to foreclose the Mortgage in accordance with state law, to apply the net proceeds to the obligation, and to otherwise exercise its contractual and state law rights as to the Property.
9. Creditor is entitled to relief from the automatic stay for the following reason(s):
 - a. Creditor is not adequately protected per 11 USC § 362(d)(1) based upon Debtor's post-petition default.

- b. Debtor is in default post-petition. Debtor has failed to make full post-petition payments for the past 3 months as of August 1, 2023 and is in default in the amount of \$3,996.84. This amount is broken down as follows:

<u>Post Petition Payments Delinquent to Creditor</u>		
Date Range	Amount	Total
June 2023 to August 2023	\$1,353.35	\$4,060.05
Suspense: \$(63.21)		
Total: \$3,996.84		

10. Creditor requests that the Court order that Rule 4001(a)(3) is not applicable.
11. Creditor further requests that further compliance with Fed.R.Bankr.P. 3002.1 be waived as to creditor in the instant bankruptcy case upon entry of an Order granting relief from the automatic stay.

WHEREFORE, Creditor prays for the entry of an Order Granting Relief from the Automatic Stay and the Codebtor stay.

Respectfully submitted,

/s/Alyk L. Oflazian

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**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

In re: : Case No.: 22-12950
Patricia K. McCormack : Chapter 13
Debtor(s) : Judge Ashely M. Chan
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CERTIFICATE OF SERVICE

I certify that on the date of filing, a copy of the foregoing Motion of U.S. Bank National Association for Relief from the Automatic Stay and Codebtor Relief as to Joseph McCormack on First Mortgage for Real Property located at 204 McKeon Street, Philadelphia, PA 19148 was filed electronically. Notice of this filing will be sent to the following parties through the Court's Electronic Case Filing System:

Office of U.S. Trustee, Party of Interest, (Registered address)@usdoj.gov

Kenneth E. West, Chapter 13 Trustee, ecfemails@ph13trustee.com

BRAD J. SADEK, Attorney for Patricia K. McCormack, brad@sadeklaw.com

I certify that on the date of filing, a copy of the foregoing document was sent by U.S.

Mail to the following:

Patricia K. McCormack and Joseph McCormack, 204 McKean Street, Philadelphia, PA
19148

/s/Alyk L. Oflazian